

CHRISTIAN Z. SMITH, ESQ.

Nevada Bar No. 8266

**RICHARD HARRIS LAW FIRM**

801 South Fourth Street

Las Vegas, Nevada 89101

Telephone: (702) 444-4444

Facsimile: (702) 444-4455

*Attorney for Plaintiff*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

JANEY RUTH CICCOLELLA, individually,

Plaintiff,

vs.

SMITH'S FOOD & DRUG CENTERS,  
INC., a Foreign Corporation; THE KROGER  
CO., a Foreign Corporation; DOES I - X, and  
ROE CORPORATIONS I - X, inclusive,

Defendants.

CASE NO.: 2:18-cv-01686-APG-NJK

**STIPULATION AND ORDER TO  
EXTEND DISCOVERY  
(THIRD REQUEST)**

**1. The parties can show good cause for the present stipulation.**

Previously, counsel stipulated to a 60-day extension to discovery to allow the parties to complete discovery. One of the primary reasons for the prior stipulation was that Plaintiff's prior attorney, Elaine Marzola Esq., had experienced the loss of a family member which delayed discovery. Counsel resumed discovery; however, discovery was placed on hold because the parties agreed to conduct a private mediation with Judge Stewart Bell on March 6, 2019. Due to the scheduled mediation, the parties filed a second request to extend the discovery deadlines by 30-days in hopes that this matter would resolve at mediation. The parties attended the mediation on March 6, 2019; however, a settlement was not reached.

1 After the March 6, 2019 mediation, Ms. Marzola left the Richard Harris Law Firm and  
2 Plaintiff's case was transferred within the law firm to Christian Z. Smith, Esq. A Notice of  
3 Appearance for Mr. Smith was filed on or about March 15, 2019. Mr. Smith has undertaken  
5 efforts to get up to speed on the litigation of this matter.

6 Mr. Smith and Jerry Busby, Esq, Defendant's counsel, have had discussions about the  
7 discovery that needs to be completed which mainly involves obtaining all of Plaintiff's prior  
8 medical records. It was agreed that it will take more time to obtain these prior treatment records  
9 than previously contemplated because some of these medical providers are out of state. As such,  
10 the parties are requesting a 90-day extension.

11 IT IS HEREBY STIPUALTED AND AGREED by and between CHRISTIAN Z.  
12 SMITH, ESQ. of the RICHARD HARRIS LAW FIRM, Attorneys for Plaintiff, JANEY  
13 CICCOLELLA, and JERRY BUSBY, ESQ. of the law firm COOPER LEVENSON, P.A.,  
14 Attorneys for Defendant, SMITH'S FOOD & DRUG CENTERS, INC. that certain discovery  
15 deadlines in this matter be continued for a period of 90 days to all the parties additional time to  
16 complete discovery without having to burden the Court with another stipulation to extend in the  
17 future.  
18

19 **DISCOVERY COMPLETED TO DATE**

- 20 1. On September 10, 2018, the parties conducted the Rule 26 Conference;
- 21 2. On September 20, 2018, the parties submitted a Stipulated Discovery Plan and  
22 Scheduling Order for the Court's approval;
- 23 3. On September 24, 2018, Defendant served written discovery to Plaintiff;
- 24 4. On November 1, 2018, Plaintiff served written responses to Defendant's discovery;
- 25 5. On November 6, 2018, Plaintiff served written discovery to Defendant;
- 26 6. On December 7, 2018, Defendant served written responses to Plaintiff's discovery;
- 27 7. On January 17, 2019, Defendant took Plaintiff's deposition;

28 ///

1 8. The parties have retained medical experts, but those medical experts are still in the  
2 process of reviewing all the available medical records and are unable to complete  
3 their respective evaluation until all or most of Plaintiff's prior treatment records are  
5 obtained and produced.

6 **DISCOVERY TO BE COMPLETED**

- 7 1. The parties will formally designate initial and rebuttal experts;  
8 2. The parties will take depositions of designated expert witnesses and medical  
9 providers;  
10 3. The parties will take the depositions of any other witnesses garnered through  
11 discovery;  
12 4. Plaintiff will take the deposition of Defendant's Rule 30(b)(6) witness; and  
13 5. Defendant will take the deposition of Plaintiff's husband.

14 **WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

15 This Request for an extension of time is not sought for any improper purpose or other  
16 purpose of delay. Rather, it is sought by the parties solely for the purpose of allowing enough  
17 time to conduct discovery.  
18

19 As previously disclosed to this Court, Plaintiff is alleging significant injuries and  
20 damages. Plaintiff; however, has pre-existing medical conditions that need to be fully evaluated  
21 to ascertain the extent, if any, of her alleged injuries. Some of Plaintiff's medical providers are  
22 out of state which has delayed the parties' ability to obtain these medical records.

23 The parties attempted to resolve this matter through private mediation; however,  
24 settlement was not reached during mediation. There has been some additional settlement  
25 discussions and the parties hope to renew efforts at potential settlement after the necessary  
26 discovery has been completed.

27 ...

28 ...

1 Lastly, Plaintiff's prior counsel has left the Richard Harris Law Firm which resulted in  
2 her case being transferred to Mr. Smith. Mr. Smith has diligently undertaken efforts to become  
3 familiar with this litigation but this transition in counsel warrants the requested continuance.

5 The parties respectfully submit that this constitutes good cause for the extension. The  
6 following is a list of the current discovery deadlines and the parties' proposed extended  
7 deadlines.

8 <b>Scheduled Event</b>	<b>Current Deadline</b>	<b>Proposed Deadline</b>
9		
10 Discovery Cut-Off	June 3, 2019	September 3, 2019
11 Interim Status Report	April 4, 2019	July 5, 2019
12 Expert Disclosure	April 4, 2019	July 5, 2019
13 Rebuttal Expert Disclosure	May 6, 2019	August 6, 2019
14 Dispositive Motions	July 3, 2019	October 3, 2019
15 Joint Pre-Trial Order	August 1, 2019	November 4, 2019

16 This Request for an extension of time is not sought for any improper purpose or other  
17 purpose of delay. Rather it is sought by the parties solely for the purpose of allowing enough  
18 time to conduct discovery in this case and adequately prepare their respective cases for trial.

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

1 This is the third request for extension of time in this matter. The parties submit that the  
2 reasons set forth above constitute good cause for the requested extension.

3 Respectfully submitted this 26th day of March, 2019.

5 RICHARD HARRIS LAW FIRM

COOPER LEVENSON, P.A.

7 /s/ Christian Z. Smith, Esq.

/s/ Jerry S. Busby, Esq.

8 CHRISTIAN Z. SMITH, ESQ.

JERRY S. BUSBY, ESQ.

9 Nevada Bar No. 8266

Nevada Bar No. 1107

801 S. Fourth Street

1835 Village Center Circle

Las Vegas, NV 89101

Las Vegas, NV 89134

(702) 444-4444

(702) 266-1125

Attorneys for Plaintiff

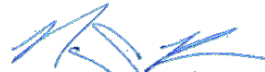
Attorneys for Defendant

JANEY CICCOLELLA

SMITH'S FOOD & DRUG CENTERS

IT IS SO ORDERED:

**NO FURTHER EXTENSIONS  
WILL BE GRANTED.**



UNITED STATES MAGISTRATE JUDGE

DATED: March 27, 2019